

FILED
11-21-2023
CLERK OF WISCONSIN
SUPREME COURT

No. 2023AP2020-OA

In the Supreme Court of Wisconsin

TONY EVERS, GOVERNOR OF WISCONSIN, DEPARTMENT OF NATURAL RESOURCES, BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM, DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES, *and* MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND SOCIAL WORK EXAMINING BOARD,
PETITIONERS,

v.

SENATOR HOWARD MARKLEIN *and* REPRESENTATIVE MARK BORN, *in their official capacities as chairs of the Joint Committee on Finance*; SENATOR CHRIS KAPENGA *and* REPRESENTATIVE ROBIN VOS, *in their official capacities as chairs of the Joint Committee on Employment Relations*; *and* SENATOR STEVE NASS *and* REPRESENTATIVE ADAM NEYLON, *in their official capacities as co-chairs of the Joint Committee for Review of Administrative Rules*,
RESPONDENTS.

On Petition For Original Action Before this Court

**PROPOSED-INTERVENOR THE WISCONSIN STATE
LEGISLATURE'S MOTION TO INTERVENE AS RESPONDENT**

MISHA TSEYTLIN
Counsel of Record
SEAN T.H. DUTTON
KEVIN M. LEROY
TROUTMAN PEPPER
HAMILTON SANDERS LLP
227 W. Monroe Street,
Suite 3900
Chicago, Illinois 60606
(608) 999-1240
(312) 759-1939 (fax)
misha.tseytlin@troutman.com

Attorneys for the Wisconsin State Legislature

The Wisconsin State Legislature (“Legislature”), by its undersigned attorneys at Troutman Pepper Hamilton Sanders LLP, hereby moves the Court for leave to intervene as a Respondent in this matter both as a matter of right under Wis. Stat. § 803.09(2m), and Wis. Stat. § 803.09(1), as well as permissively under Wis. Stat. § 803.09(2).

The grounds for this Motion are as follows and as explained in more detail in the accompanying Brief In Support Of The Wisconsin State Legislature’s Motion To Intervene As Respondent:

1. The Legislature has a statutory right to intervene under Wis. Stat. § 803.09(2m), which grants the Legislature the right to intervene when a party “challenges . . . the constitutionality of a statute, facially or as applied,” because this case challenges the constitutionality of numerous statutes authorizing legislative committees to review the actions of executive branch agencies.

2. The Legislature is also entitled to intervene as a matter of right under Wis. Stat. § 803.09(1), because the Legislature has timely filed a motion to defend its sovereign interests in the constitutionality, validity, and enforcement of its duly enacted statutes and its own constitutional law-making powers, which interests are unique to the Legislature and are directly threatened by Petitioners’ Petition For Original Action.

3. Finally, and in the alternative, this Court should grant the Legislature permissive intervention under Wis.

Stat. § 803.09(2), because the Legislature's defense shares a "question of law or fact" with the "main action," which defense directly implicates the Legislature's sovereign interests, and because the Legislature's involvement would not prejudice the existing parties.

WHEREFORE, the Legislature respectfully requests that this Court grant this Motion, thereby allowing the Legislature to participate in this matter as an Intervenor-Respondent.

Dated: November 21, 2023.

Respectfully submitted,

Electronically signed by

Misha Tseytlin

MISHA TSEYTLIN

(State Bar No. 1102199)

Counsel of Record

SEAN T.H. DUTTON

(State Bar No. 1134675)

KEVIN M. LEROY

(STATE BAR NO. 1105053)

TROUTMAN PEPPER

HAMILTON SANDERS LLP

227 W. Monroe Street,

Suite 3900

Chicago, Illinois 60606

(608) 999-1240

(312) 759-1939 (fax)

misha.tseytlin@troutman.com

Attorneys for the Wisconsin State Legislature